

Before the
Federal Communications Commission
Washington, D.C. 20554

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AUG 13 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 97-107
Table of Allotments,) RM-9023
FM Broadcast Stations.)
(Potts Camp and Saltillo, Mississippi))

To: The Commission

OPPOSITION TO APPLICATION FOR REVIEW

Broadcasters & Publishers, Inc. ("BPI"), licensee of Station WWKZ(FM), Aberdeen, Mississippi, by its attorney hereby opposes the Application for Review filed in the above-captioned proceeding by Olvie E. Sisk ("Sisk") of a Report and Order, released on June 19, 1998 (DA-1083), in which the Chief of the Allocations Branch denied a Petition for Rulemaking filed by Sisk, licensee of Station WCNA(FM), Channel 240C3, Potts Camp, Mississippi, which sought to reallocate Channel 240C3 from Potts Camp to Saltillo, Mississippi, and to modify the license of Station WCNA(FM) accordingly. In support thereof, the following is shown:

The Chief of the Allocations Branch concluded that the proposed reallocation of Channel 240C3 from Potts Camp to Saltillo does not provide a public interest benefit of enough significance to outweigh the loss of a transmission service to Potts Camp or offset the disruption of an existing service. Sisk contends, however, that "the Report and Order involves application of Commission policy in such a way as to create an irrational result which is

irreconcilable with other Commission precedent." The exact opposite is true -- the Report and Order, after a careful recitation of Sisk's arguments and the relevant case law, reaches a rational result that is totally consistent with other case precedent.

Sisk seeks to abandon its community of license by moving Potts Camp's only aural transmission service to Saltillo -- in Sisk's words, "Saltillo is a prospering and growing community, while Potts Camp is dying." The Application for Review represents another attempt by Sisk to use the Commission's allocation policies to improve the economic lot of Station WCNA. However, as the Commission stated in Change of Community Report & Order, 4 FCC Rcd. 4870 (1989), "... adherence to the allotment criteria will ensure that any exchange involving a change in the community of license will be made in the public interest and not solely in the financial interests of the participants."

Sisk points out that while the Report and Order distinguished Noalmark Broadcasting Corp., 50 RR 2d 755 (1982), on the grounds that the community involved (Humble City, New Mexico) had no remaining population, businesses or local government, the community of Potts Camp has "a tiny population, a handful of businesses, and a modicum of part-time local governmental services" and is in "an irrevocable decline." Application for Review, at 4. Sisk fails to point out that the Report and Order provided a second reason why reliance on Noalmark is misplaced: "In addition, Noalmark Broadcasting was not changing its technical operation and therefore, no loss of service would occur. Here, no party has filed comments offering such evidence." Report and Order, at 4.

BPI, in Comments filed in this proceeding on May 19, 1997, took the position that the community of Saltillo is deserving of a local broadcast transmission service but not at the

expense of removing the community of Potts Camp's only local transmission service. In this connection, BPI filed with the Commission yesterday a Petition for Rule Making requesting that Channel 275C3 be allotted to Saltillo. It is clear that the public interest is best served by retaining Potts Camp's only aural transmission service. A first aural service for Saltillo can be achieved by a grant of BPI's petition to allot Channel 275C3 to that community. Thus, the Chief of the Allocations Bureau correctly concluded that the decision to remove an existing aural service from Potts Camp should be made based on public interest considerations and not solely on the financial interests of Sisk.

WHEREFORE, for the foregoing reasons, BPI respectfully requests that the Commission dismiss the Application for Review.

Respectfully submitted,

BROADCASTERS AND PUBLISHERS, INC.

By 
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August 13, 1998

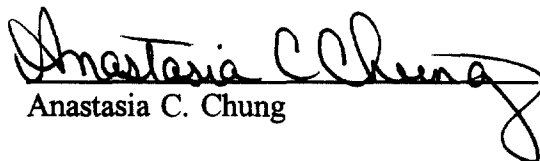
CERTIFICATE OF SERVICE

This is to certify that I, Anastasia C. Chung, have filed the foregoing Opposition to Application for Review was filed with the Federal Communications Commission on this 13th day of August, 1998, and that a copy has been served by way of U.S. mail, postage pre-paid, upon:

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